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5                   **UNITED STATES DISTRICT COURT**  
6                   **EASTERN DISTRICT OF WASHINGTON**  
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8                   JOSEPH A. PAKOOTAS, an                   }  
9                   individual and enrolled member of the                   }  
10                  Confederated Tribes of the Colville                   }  
11                  Reservation; and DONALD L.                   }  
12                  MICHEL, an individual and enrolled                   }  
13                  member of the Confederated Tribes of                   }  
14                  the Colville Reservation; and the                   }  
15                  **CONFEDERATED TRIBES OF THE**  
16                  **COLVILLE RESERVATION,**                   }

17                  Plaintiffs,                                   }

18                  And   }

19                  STATE OF WASHINGTON,                   }

20                  Plaintiff-Intervenor,                   }

21                  V.   }

22                  TECK COMINCO METALS, LTD.,                   }

23                  a Canadian corporation,                   }

24                  Defendant.                                   }

25   } No. CV-04-256-LRS  
26   }

27   } **ORDER GRANTING**  
28   } **PLAINTIFFS PAKOOTAS,**  
29   } **MICHEL, AND THE STATE**  
30   } **OF WASHINGTON'S JOINT**  
31   } **MOTION FOR PARTIAL**  
32   } **RECONSIDERATION OF**  
33   } **ORDER GRANTING**  
34   } **DEFENDANT'S 12(b)(1)**  
35   } **MOTION, INTER ALIA**

36   }   
37   } This Matter having come before the Court on Plaintiffs' Joint Motion for  
38   } Partial Reconsideration of Order Granting Defendant's 12(b)(1) Motion, *Inter*  
39   } *Alia*; and the Court having reviewed the file and pleadings therein and being  
40   } otherwise fully advised in the matter and counsel for Defendant having indicated it  
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43   } **ORDER GRANTING PLAINTIFFS PAKOOTAS,**  
44   } **MICHEL, AND THE STATE OF WASHINGTON . . . - 1**

does not oppose Plaintiffs' Motion (Ct. Rec. 184), hereby orders that:

1. Plaintiffs' Joint Motion for Partial Reconsideration of Order Granting Defendant's 12(b)(1) Motion, *Inter Alia*, is GRANTED.

2. The Court's September 19, 2008 Order Granting Defendant's 12(b)(1) Motion, *Inter Alia*, is MODIFIED as follows: Plaintiff's Pakootas, Michel, and the State of Washington's claims for civil penalties under the CERCLA citizens suit provision, 42 U.S.C. § 9659, is dismissed WITHOUT prejudice.

**DATED** this 17th day of October, 2008.

*s/Lonny R. Suko*

**LONNY R. SUKO**  
United States District Judge

## **ORDER GRANTING PLAINTIFFS PAKOOTAS, MICHEL, AND THE STATE OF WASHINGTON . . . - 2**